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Type of Instrument: JUDGMENT OF FORECLOS

Recorded: 1/8/2019

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Index Number: 13 64147 Sequence Number: 128

Plaintiff(s) :

BANK OF AMERICA

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Defendant(s) :

HEANEY, THOMAS, UNKNOWN HEIRS

Attorney(s) :

TAX_MAP_NO:

Liber Page(s):
M00021885-898

ADDITIONAL INFORMATION EXISTS PLEASE SEE DOCUMENT
THIS PAGE IS A PART OF THE INSTRUMENT
THIS IS NOT A BILL

Judith A. Pascale
County Clerk, Suffolk County

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IAS Term

At Part 18 of the Supreme Court of the State of New York, held in and for the County of SUFFOLK at the Courthouse thereof, 1 Court St., Riverhead, NY 11901 on the 11th day of December, 2018.

PRESENT: HON. HOWARD H. HECKMAN, JR.

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Heckman

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK

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ENTERED: JAN 08 2019
AT: 11:59am

BANK OF AMERICA, N.A.,

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Plaintiff,

-against-

INDEX NO.: 64147/2013

ORDER CONFIRMING REFEREE REPORT AND JUDGMENT OF FORECLOSURE AND SALE

MORTGAGED PROPERTY:
3 DERBY DRIVE
STONY BROOK, NY 11790

COUNTY: SUFFOLK

District: 0200, Section: 175.00,
Block: 01.00, Lot: 008.000

UNKNOWN HEIRS OF THE ESTATE OF THOMAS E. HEANEY A/K/A THOMAS HEANEY;
NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE;
UNITED STATES OF AMERICA;
PATRICK J. HEANEY AS UNKNOWN HEIRS OF THE ESTATE OF THOMAS E. HEANEY A/K/A THOMAS HEANEY;
THOMAS E. HEANEY JR. ADMINISTRATOR OF THE ESTATE OF THOMAS E. HEANEY A/K/A THOMAS HEANEY, AND HEIR TO THE ESTATE OF JANE HEANEY;
THOMAS E. HEANEY JR.;
JOE MCGINNUS,

No Objective

Defendants.

SUFFOLK COUNTY SUPREME COURT
RIVERHEAD, NEW YORK
OCT 29 2018
RECEIVED

UPON reading the Summons, Complaint and Notice of Pendency filed in this action on November 25, 2013, the Notice of Pendency filed on January 6, 2018, the Notice of Motion dated October 23, 2018, the affirmation of Matthew Ingber, Esq. and the exhibits annexed thereto, and upon the affidavit of merit and amount due by Margaret Evans who is an Authorized Signer of Reverse Mortgage Solutions, Inc., duly sworn to on July 21, 2017; together with the

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exhibits attached thereto, all in support of Plaintiff's motion for a Judgment of Foreclosure and Sale; and

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UPON proof that each of the Defendants herein have been duly served with the Summons and Complaint in this action, and has voluntarily appeared either personally or by their respective attorneys or have not served any answer to the Complaint or otherwise appeared, nor had their time to so do extended; and it appearing that more than the legally required number of days had elapsed since said Defendants NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE, UNITED STATES OF AMERICA, PATRICK J. HEANEY, THOMAS E. HEANEY JR and JOE MCGINNUS were so served and/or appeared; and Plaintiff having established to the court's satisfaction that judgment against the defendants is warranted;

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UPON the affidavit of mailing reflecting compliance with CPLR 3215(g)(3)(iii); and

UPON proof that non-appearing defendants NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE, UNITED STATES OF AMERICA, PATRICK J. HEANEY, and JOE MCGINNUS are not absent, in accordance with RPAPL §1321(2); and

Upon the limited notice of appearance by THOMAS E. HEANEY;

A Referee having been appointed to compute the amount due to the Plaintiff upon the bond/note and mortgage set forth in the Complaint, and to examine whether the mortgaged property can be sold in parcels; and

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UPON reading and filing the Report of dated October 26, 2017, showing the sum of $554,307.21 due as of July 10, 2017 said Report and that the mortgaged property cannot be sold in parcels; and

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UPON proof of due notice of this application upon all parties entitled to receive same, and upon all of the prior proceedings and papers filed herein;

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NOW, on motion by Matthew Ingber, Esq., attorney for the Plaintiff, it is hereby

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ORDERED, ADJUDGED AND DECREED that the motion is granted; and it is further

ORDERED, ADJUDGED AND DECREED that the Referee's Report be, and the same is, hereby in all respects ratified and confirmed; and it is further

ORDERED, ADJUDGED AND DECREED that the mortgaged property described in the Complaint in this action and as hereafter described, or such part thereof as may be sufficient to discharge the mortgage debt, the expenses of the sale, and the costs of this action as provided by the RPAPL be sold, within 90 days from the date of this Judgment, in one parcel, at public auction at the BROOKHAVEN TOWN HALL 1 INDEPENDENCE HILL FARMINGVILLE, NY 11738 by and under the direction of Phil Castellano, Esq. who is hereby appointed Referee for that purpose; that said Referee give public notice of the time and place of sale in accordance with RPAPL §231 in South Shore Press; and it is further

JS

ORDERED, ADJUDGED AND DECREED that by accepting this appointment the Referee certifies that he/~~she~~ is in compliance with Part 36 of the Rules of the Chief Judge (22 NYCRR Part 36), including, but not limited to §36.2(c) ("Disqualifications from appointment"),

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and §36.2(d) ("Limitations on appointments based upon compensation"); and, if the Referee is disqualified from receiving an appointment pursuant to the provisions of that Rule, the Referee shall immediately notify the Appointing Judge; and it is further

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ORDERED, ADJUDGED AND DECREED that the Referee is prohibited from accepting or retaining any funds for him/herself or paying funds to him/herself without compliance with Part 36 of the Rules of the Chief Administrative Judge; and it is further

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ORDERED, ADJUDGED AND DECREED that the Referee shall conduct the foreclosure sale only if Plaintiff, its successors and/or assignees, or its representative is present at the sale or the Referee has received a written bid and Terms of Sale from Plaintiff, its successors and/or assigns, or its representative; and it is further

~~ORDERED, ADJUDGED AND DECREED that if the Referee does not conduct the sale within 90 days of the date of the judgment, in accordance with CPLR 2004, the time fixed by RPAPL §1351(1) is extended for the Referee to conduct the sale as soon as reasonably practicable; and it is further~~

J.S.C.

ORDERED, ADJUDGED AND DECREED that at the time of sale the Referee shall accept a written bid from the Plaintiff or the Plaintiff's attorney, just as though Plaintiff were physically present to submit said bid; and it is further

ORDERED, ADJUDGED AND DECREED that the Referee shall accept the highest bid offered by a bidder who shall be identified upon the court record, and shall require that the successful bidder immediately execute Terms of Sale for the purchase of the property, and pay to the Referee, in cash or certified or bank check, ten percent (10%) of the sum bid, unless the

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successful bidder is the Plaintiff in which case no deposit against the purchase price shall be required; and it is further

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ORDERED, ADJUDGED AND DECREED that in the event the first successful bidder fails to execute the Terms of Sale immediately following the bidding upon the subject property or fails to immediately pay the ten percent (10%) deposit as required, the property shall immediately and on the same day be reoffered at auction; and it is further

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ORDERED, ADJUDGED AND DECREED that the Referee shall then deposit the down payment and proceeds of sale, as necessary, in any FDIC insured bank account in his/~~her~~ own name as Referee, in accordance with CPLR 2609; and it is further

ORDERED, ADJUDGED AND DECREED that after the property is sold the Referee shall execute a deed to the purchaser, in accordance with RPAPL §1353 and the terms of sale, which shall be deemed a binding contract; and it is further

ORDERED, ADJUDGED AND DECREED that in the event a party other than the Plaintiff becomes the purchaser at the sale, the closing of title shall be had thirty (30) days after the date of such sale unless otherwise stipulated by all parties to the sale; and it is further

ORDERED, ADJUDGED, AND DECREED that if the Plaintiff (or its affiliate, as defined in paragraph (a) of subdivision 1 of section six-l of the Banking Law) is the purchaser, such party shall place the property back on the market for sale or other occupancy: (a) within one hundred eighty (180) days of the execution of the deed of sale, or (b) within ninety (90) days of completion of construction, renovation, or rehabilitation of the property, provided that such construction, renovation, or rehabilitation proceeded diligently to completion, whichever comes

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first, provided however, a court of competent jurisdiction may grant an extension for good cause; and it is further

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ORDERED, ADJUDGED, AND DECREED that the Referee, on receiving the proceeds of such sale, shall forthwith pay therefrom, in accordance with their priority according to law, all taxes, assessments, sewer rents, or water rates, which are, or may become, liens on the property at the time of sale, with such interest or penalties which may have lawfully accrued thereon to the date of payment; and it is further

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ORDERED, ADJUDGED, AND DECREED, that the Referee then deposit the balance of said proceeds of sale in ~~her~~/his own name as Referee in any FDIC insured bank account, and shall thereafter make the following payments in accordance with RPAPL §1354, as follows:

FIRST: The Referee's statutory fees for conducting the sale, in accordance with CPLR 8003(b), ~~not to exceed~~ shall be $500.00, ~~unless the property sells for $50,000.00 or more OR in the event a sale was cancelled or postponed, Plaintiff shall compensate the Referee in the sum of $ for each adjournment or cancellation, unless the Referee caused the delay;~~

SECOND: All taxes, assessments and water rates that are liens upon the property and monies necessary to redeem the property from any sales for unpaid taxes, assessments, or water rates that have not apparently become absolute, and any other amounts due in accordance with RPAPL §1354(2). Purchaser shall be responsible for interest and penalties due on any real property taxes accruing after the sale. The Referee shall not be held responsible for the payment of penalties or

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fees pursuant to this appointment. The Purchaser shall hold the Referee harmless from any such penalties or fees assessed;

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THIRD: The expenses of the sale and the advertising expenses as shown on the bills presented and certified by said Referee to be correct, duplicate copies of which shall be annexed to the report of sale;

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FOURTH: The Referee shall then pay to the Plaintiff or its attorney the following:

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Amount Due per Referee's Report: $554,307.21 with interest at the note rate as of July 10, 2017, together with any advances together with any advances as provided for in the note and mortgage which Plaintiff has made for taxes, insurance, principal, and interest, and any other charges due to prior mortgages or to maintain the property pending consummation of this foreclosure sale, not previously included in the computation, upon presentation of receipts for said expenditures to the Referee, all together with interest thereon pursuant to the note and mortgage, and then with interest from the date of entry of this judgment at the statutory rate until the date the deed is transferred;

Costs and Disbursements: $ 1,055.00 adjudged to the Plaintiff for costs and disbursements in this action, with interest at the statutory judgment rate from the date of entry of this judgment;

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Additional Allowance: $ 300.00 is hereby awarded to the Plaintiff in addition to costs, with interest at the statutory judgment rate from the date of entry of this judgment, pursuant to CPLR Article 83;

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Attorney Fees: $ 870.00 is hereby awarded to the Plaintiff as reasonable legal fees herein, with interest at the statutory rate from the date of entry of this judgment;

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FURTHER, Surplus monies arising from the sale shall be paid into ~~court~~ Co. Treas by the officer conducting the sale within five days after receipt in accordance with RPAPL §1354(4) and in accordance with local County rules regarding Surplus Monies; and it is further

ORDERED, ADJUDGED AND DECREED that if the Plaintiff is the purchaser of the property, or in the event that the rights of the purchasers at such sale and the terms of sale under this judgment shall be assigned to and be acquired by the Plaintiff, and a valid assignment thereof is filed with said Referee, said Referee shall not require the Plaintiff to pay in cash the entire amount bid at said sale, but shall execute and deliver to the Plaintiff or its assignee, a deed or deeds of the property sold upon the payment to said Referee of the amounts specified in items marked "First" , "Second", and "Third" above; that the Referee shall allow the Plaintiff to pay the amounts specified in "Second" and "Third" above when it is recording the deed; that the balance of the bid, after deducting the amounts paid by the Plaintiff, shall be applied to the amount due Plaintiff as specified in paragraph "Fourth" above; that if there is a surplus after

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applying the balance of the bid, the Plaintiff shall pay that amount to the Referee, who shall deposit it in accordance with paragraph "Fifth" above; and it is further

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ORDERED, ADJUDGED AND DECREED that all expenses of recording the Referee's deed, including real property transfer tax, which is not a lien upon the property at the time of sale, shall be paid by the purchaser, not by the Referee from sale proceeds; and that any transfer tax shall be paid in accordance with Tax Law §1404; and it is further

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ORDERED, ADJUDGED AND DECREED that the mortgaged property is to be sold in one parcel in "as is" physical order and condition, subject to any state of facts that an inspection of the property would disclose; any state of facts that an accurate survey of the property would show; any covenants, restrictions, declarations, reservations, easements, right of way, and public utility agreements of record, if any; any building and zoning ordinances of the municipality in which the mortgaged property is located and possible violations of same; any rights of tenants or persons in possession of the subject property; prior liens of record, if any, except those liens addressed in RPAPL §1354; any equity of redemption of the United States of America to redeem the property within 120 days from the date of sale; and any rights pursuant to CPLR §317, §2003 and §5015 or any appeal of the underlying action or additional litigation brought by any defendant or its successor or assignee contesting the validity of this foreclosure; and it is further

ORDERED, ADJUDGED AND DECREED that the purchaser be let into possession of the property on production of the Referee's Deed or upon personal service of the Referee's deed in accordance with CPLR §308; and it is further

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ORDERED, ADJUDGED AND DECREED that the Defendants in this action and all persons claiming through them and any person obtaining an interest in the property after the filing of the Notice of Pendency are barred and foreclosed of all right, claim, lien, title, and interest in the property after the sale of the mortgaged property; and it is further

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ORDERED, ADJUDGED AND DECREED that within thirty days after completing the sale and executing the proper conveyance to the purchaser, unless the time is extended by the court, the officer making the sale shall file with the clerk a report under oath of the disposition of the proceeds of the sale in accordance with RPAPL §1355(1) and follow all local County rules regarding handling of Surplus Monies; and it is further

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ORDERED ADJUDGED AND DECREED that if the purchaser or purchasers at said sale default(s) upon the bid and/or the terms of sale the Referee may place the property for resale without prior application to the Court unless the Plaintiff's attorneys shall elect to make such application; and it is further

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ORDERED, ADJUDGED AND DECREED, that the defendant PATRICK J. HEANEY AS UNKNOWN HEIRS OF THE ESTATE OF THOMAS E. HEANEY A/K/A THOMAS HEANEY be amended to read as PATRICK J. HEANEY, AS HEIR OF THE ESTATE OF THOMAS E. HEANEY A/K/A THOMAS HEANEY, AND HEIR TO THE ESTATE OF JANE HEANEY; and it is further

ORDERED, ADJUDGED AND DECREED, that the caption is hereby amended by striking the UNKNOWN HEIRS OF THE ESTATE OF THOMAS E. HEANEY A/K/A

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THOMAS and the duplicate reference of THOMAS E. HEANEY, JR., as neither are necessary nor proper parties to this action; and it is further

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ORDERED, ADJUDGED AND DECREED, that the caption be amended to read as follows:

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BANK OF AMERICA, N.A.,

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Plaintiff,

-against-

NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE;
UNITED STATES OF AMERICA;
PATRICK J. HEANEY AS HEIR OF THE ESTATE OF THOMAS E. HEANEY JR. ADMINISTRATOR OF THE ESTATE OF THOMAS E. HEANEY A/K/A THOMAS HEANEY, AND HEIR TO THE ESTATE OF JANE HEANEY;
THOMAS E. HEANEY JR.;
JOE MCGINNUS,

Defendants.

Defendants.

----------X

and it is further

ORDERED, ADJUDGED AND DECREED that nothing herein shall be deemed to relieve Plaintiff of any obligation imposed by RPAPL §1307 and RPAPL §1308 to secure and maintain the property until such time as ownership of the property has been transferred and the deed duly recorded; and it is further

ORDERED, ADJUDGED AND DECREED that when the Referee files a report of sale, he or she shall concurrently file a Foreclosure Actions Surplus Monies Form; and it is further

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Reo America Abstract, Inc.
123 South Broad Street
Philadelphia, PA 19109

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SCHEDULE A

DESCRIPTION OF MORTGAGED PREMISES

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Title No. 04-RAA-01-9134

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All that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Town of Brookhaven, County of Suffolk and State of New York as shown on a certain map entitled "Map of Quaker Ridge, Section 4" and filed in the Office of the Clerk of the County of Suffolk on April 16, 1959 as Map No. 7945, known and designated as Lot No. 11.

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ORDERED, ADJUDGED AND DECREED that to ensure compliance herewith, Plaintiff shall file a written report with the court within six months from the date of entry of this judgment stating whether the sale has occurred and the outcome thereof.

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Said property is commonly known as 3 DERBY DRIVE, STONY BROOK, NY 11790.

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The legal description of the mortgaged property referred to herein is annexed hereto as **Schedule "A".**

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DATED: December 4, 2018

ENTER:

ORDERED that in the event there is a third-party sale, plaintiff shall send an attorney to the closing.

J.S.C.

HON. HOWARD H. HECKMAN, JR.

GRANTED

DEC 11 2018

Judith A. Pascale
CLERK OF SUFFOLK COUNTY

Judith A. Pascale

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK

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BANK OF AMERICA, N.A.,

Plaintiff,

-against-

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UNKNOWN HEIRS OF THE ESTATE OF THOMAS E. HEANEY A/K/A THOMAS HEANEY; NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE; UNITED STATES OF AMERICA; PATRICK J. HEANEY AS UNKNOWN HEIRS OF THE ESTATE OF THOMAS E. HEANEY A/K/A THOMAS HEANEY; THOMAS E. HEANEY JR. ADMINISTRATOR OF THE ESTATE OF THOMAS E. HEANEY A/K/A THOMAS HEANEY, AND HEIR TO THE ESTATE OF JANE HEANEY; THOMAS E. HEANEY JR.; JOE MCGINNUS,

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Defendants.

----------X

INDEX NO.: 64147/2013

COSTS TO PLAINTIFF

MORTGAGED PROPERTY:
3 DERBY DRIVE
STONY BROOK, NY 11790

COUNTY: SUFFOLK

District: 0200, Section: 175.00,
Block: 01.00, Lot: 008.000

COST TAXED AT $ 1065.00
TIME _____ DAY OF _____

JAN - 8 2019

JUDITH A. PASCALE
CLERK OF SUFFOLK COUNTY

COSTS

Costs before Note of Issue - CPLR 8201(1)		$200.00
Allowance by statute - CPLR 8302(a)(b)		
First $200.00 at 10%	$20.00	
Next $800.00 at 5%	$40.00	
Next $2000.00 at 2%	$40.00	
Next $5000.00 at 1%	$50.00	
		$150.00
Additional allowance - CPLR 8302(d)		$50.00

FEES AND DISBURSEMENTS

Fee for index number -	CPLR 8018(a)	$400.00
Request for judicial intervention	CPLR 8020(a)	$95.00
Clerk's fee for filing of Notice of Pendency -	CPLR 8021(a)(10)	$70.00
Motion fees -	CPLR 8020(a)	$90.00

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Total **$1,055.00**

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ATTORNEY'S AFFIRMATION

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The undersigned, Matthew Ingber, Esq., pursuant to CPLR 2106 and under penalties of perjury affirms as follows:

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That he is the attorney of record for the Plaintiff in the above captioned action; that the foregoing disbursements have been incurred in this action and are reasonable in amount and that

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the copies of documents or papers as charged herein were actually and necessarily obtained for use.

Dated: October 23, 2018
Westbury, NY

RAS BORISKIN, LLC

By: Matthew Ingber, Esq.
Attorneys for Plaintiff
900 Merchants Concourse, Suite 310
Westbury, NY 11590

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SUFFOLK COUNTY CLERK

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